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CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

RANDELL ALBERT HOPKINS,  
CDCR #V-97737,

Plaintiff,

vs.

DANIEL PARAMO, et al.,

Defendants.

Case No. 13cv1019 WQH (MDD)

**ORDER GRANTING PLAINTIFF'S  
MOTION FOR EXTENSION OF  
TIME TO AMEND**

**[ECF Doc. No. 15]**

**I. PROCEDURAL HISTORY**

Randell Albert Hopkins ("Plaintiff"), currently incarcerated at Richard J. Donovan Correctional Facility ("RJD") in San Diego, California, is proceeding pro se in this civil rights action, which he initiated pursuant to 42 U.S.C. § 1983. At the time he filed his Complaint, Plaintiff did not prepay the \$350 filing fee mandated by 28 U.S.C. § 1914(a); instead, he filed a Motion to proceed *in forma pauperis* ("IFP") pursuant to 28 U.S.C. § 1915(a) [ECF Doc. No. 4].

On June 6, 2013, the Court granted Plaintiff leave to proceed IFP, but dismissed his Complaint failing to state a claim pursuant to 28 U.S.C. § 1915(e)(2) and § 1915A(b). *See* June 6, 2013 Order [ECF Doc. No. 10]. Plaintiff was granted 45 days leave to amend. *Id.* at 7; *see also Lopez v. Smith*, 203 F.3d 1122, 1130-31 (9th Cir. 2000) (en banc) ("[A] district court should

1 grant leave to amend even if no request to amend the pleading was made, unless it determines  
2 that the pleading could not possibly be cured.”) (citations omitted).

3 Since then, Plaintiff has attempted to file various documents, most of which include  
4 reference to “1819 Constructive Notice” in their captions, and most of which have been rejected  
5 for failing to comply with both the Federal Rules of Civil Procedure as well as a host of the  
6 Court’s own Local Rules. *See, e.g.*, ECF Doc. Nos. 5, 12, 13; *King v. Atiyeh*, 814 F.2d 565, 567  
7 (9th Cir. 1987) (noting that although the Court must construe the pleadings liberally, “[p]ro se  
8 litigants must follow the same rules of procedure that govern other litigants.”). Every time  
9 Plaintiff attempted to submit these documents, the Court provided him with directions to re-open  
10 his case by first complying with its June 6, 2013 Order requiring amendment.

11 On August 1, 2013, Plaintiff again submitted a document entitled “Request to Amend  
12 Records (per) 1819 Constructive Notice to Address with an Expedited Reply to My Issues of  
13 Grave Concerns,” this time including what appear to be exhibits in support of his intended  
14 claims, and a request for an “extension of time to meet Order,” which the Court now construes  
15 as a Motion for Extension of Time in which to submit his Amended Complaint [ECF Doc. No.  
16 15].<sup>1</sup>

## 17 **II. STANDARD OF REVIEW**

18 This is Plaintiff’s first request for an extension of time, he remains incarcerated, and is  
19 still proceeding without counsel. *See Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th  
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21 <sup>1</sup> The Court cautions Plaintiff that while it has, and will continue to construe his pleadings with  
22 liberality in light of his pro se status, most of his attempted submissions make little sense, are comprised  
23 of a serious of questions and statements which appear completely unrelated to the issues raised in his  
24 original pleading, and none of which come anywhere close to addressing the deficiencies of pleading  
25 identified by the Court in its June 6, 2013 Order. Therefore, Plaintiff is reminded that his original  
26 Complaint was dismissed because his allegations appeared to “necessarily imply the invalidity” of his  
27 conviction or sentence under *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994), and because he failed  
28 to show a liberty or property interest in prison employment sufficient to invoke the Due Process Clause.  
*See* June 6, 2013 Order at 4-6. His Amended Complaint must include “plausible ... factual content”  
which fixes these pleading problems; otherwise it too will be dismissed for failing to state a claim per  
28 U.S.C. §§ 1915(e)(2) and 1915A(b), and any further attempts to amend may be refused as futile. *See*  
*Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (“[A] complaint must contain sufficient factual matter,  
accepted as true, to ‘state a claim to relief that is plausible on its face.’”) (citation omitted); *Vasquez v.*  
*Los Angeles County*, 487 F.3d 1246, 1258 (9th Cir. 2007) (recognizing “[f]utility of amendment” as a  
proper basis for dismissal without leave to amend)).

1 Cir. 1990) (court has a “duty to ensure that pro se litigants do not lose their right to a hearing on  
2 the merits of their claim due to ... technical procedural requirements.”). Thus, without more, the  
3 Court finds good cause to grant Plaintiff additional time in which to comply with the Court’s  
4 June 6, 2013 Order. “‘Strict time limits ... ought not to be insisted upon’ where restraints  
5 resulting from a pro se ... plaintiff’s incarceration prevent timely compliance with court  
6 deadlines.” *Eldridge v. Block*, 832 F.2d 1132, 1136 (9th Cir. 1987) (citing *Tarantino v. Eggers*,  
7 380 F.2d 465, 468 (9th Cir. 1967); *see also Bennett v. King*, 205 F.3d 1188, 1189 (9th Cir. 2000)  
8 (reversing district court’s dismissal of prisoner’s amended pro se complaint as untimely where  
9 mere 30-day delay was result of prison-wide lockdown).

10 **III. CONCLUSION AND ORDER**

11 Accordingly, IT IS ORDERED that:

12 1) Plaintiff’s Motion for an Extension of Time to Amend [ECF Doc. No. 15] is  
13 GRANTED. Plaintiff’s Amended Complaint, should he elect to file one, must be received by  
14 the Court no later than **Monday, September 16, 2013**. Plaintiff is cautioned, however, that his  
15 Amended Complaint must address all the deficiencies of pleading previously identified in the  
16 Court’s June 6, 2013 Order [ECF Doc. No. 10], and must be complete in itself without reference  
17 to his original Complaint. *See* S.D. CAL. CIVLR 15.1; *Hal Roach Studios, Inc. v. Richard Feiner*  
18 *& Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989) (“[A]n amended pleading supersedes the  
19 original.”); *King*, 814 F.2d at 567 (citation omitted) (“All causes of action alleged in an original  
20 complaint which are not alleged in an amended complaint are waived.”).

21 2) If Plaintiff elects *not* to file an Amended Complaint by September 16, 2013, this  
22 case shall remain dismissed for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2) and  
23 § 1915A(b) for all the reasons set forth in the Court’s June 6, 2013 Order, and without any  
24 further Order by the Court.

25  
26 DATED: 8/12/13

  
27 HON. WILLIAM Q. HAYES  
28 United States District Judge